

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Christina Vuong	Team: Team # 3	CCRB Case #: 201309750	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 10/08/2013 10:05 PM	Location of Incident: Ralph Avenue and Pacific Street, 77th Precinct stationhouse	Precinct: 77	18 Mo. SOL 4/8/2015	EO SOL 4/8/2015	
Date/Time CV Reported Tue, 10/08/2013 11:50 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 10/17/2013 11:51 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Melvin Cordero	26046	950232	077 PCT
2. POM Alex Viera	14168	945080	077 PCT
3. An officer			077 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT David Jones	02597	892418	077 PCT
2. LT Terrell Anderson	00000	933551	077 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Melvin Cordero	Force: At Ralph Avenue and Pacific Street in Brooklyn, PO Melvin Cordero used physical force against § 87(2)(b)	
B.POM Alex Viera	Force: At Ralph Avenue and Pacific Street in Brooklyn, PO Alex Viera used physical force against § 87(2)(b)	
C. An officer	Abuse: At the 77th Precinct stationhouse, an officer refused to obtain medical treatment for § 87(2)(b)	

Case Summary

On October 8, 2013, Sgt. Christopher Rizzo of the 77th Precinct reported the following complaint on behalf of § 87(2)(b) via phone with the Internal Affairs Bureau (IAB). On October 17, 2013, the Civilian Complaint Review Board (CCRB) received the complaint from IAB under log #13-43296. On December 12, 2013, § 87(2)(b) filed a duplicate complaint via phone with IAB, which the CCRB received on December 17, 2013 under log #2013-51857.

On October 8, 2013 at 10 p.m., PO Melvin Cordero and PO Alex Viera of the 77th Precinct arrested § 87(2)(b) at Ralph Avenue and Pacific Street in Brooklyn, and transported him to the 77th Precinct stationhouse. The following allegations resulted:

- **Allegation A- Force: At Ralph Avenue and Pacific Street in Brooklyn, PO Melvin Cordero used physical force against § 87(2)(b)**
- **Allegation B- Force: At Ralph Avenue and Pacific Street in Brooklyn, PO Alex Viera used physical force against § 87(2)(b)**
§ 87(2)(b), § 87(2)(g)
- **Allegation C- Abuse of Authority: At the 77th Precinct stationhouse, an officer refused to obtain medical treatment for § 87(2)(b)**
§ 87(2)(b), § 87(2)(g)

On July 28, 2014, the case was reassigned from Investigator Lesley Henry to Investigator Christina Vuong upon Investigator Henry's resignation from the CCRB.

Because § 87(2)(b) was arrested, the case was ineligible for mediation.

Results of Investigation

Civilian Statement:

Complainant/Victim: § 87(2)(b)

- § 87(2)(b)

Arrest Photo (encl. D12)

§ 87(2)(b)'s arrest photo revealed two small abrasions, one in the middle of his forehead, and the other by his right temple.

Statement to IAB (encl. D3-4)

On December 12, 2013, § 87(2)(b) stated to IAB that PO Cordero and PO Viera beat up § 87(2)(b) by throwing him on the ground, and once on the ground, PO Viera "stomped on" his face.

CCRB Statement (encl. D7-11)

On November 19, 2013, § 87(2)(b) provided a phone statement to the CCRB. On December 26, 2013, he provided an in-person statement at the CCRB. His statements were generally consistent and are summarized below, with relevant exceptions noted.

On October 8, 2013 at 10:05 p.m., § 87(2)(b) was walking home alone along Ralph Avenue in Brooklyn near Pacific Street, approximately six blocks away from his residence, located at 1720 Park Place, when he stopped by a tree and urinated. He removed a tissue paper from his pocket and wiped himself afterwards. § 87(2)(b) did not describe whether he was under the influence of drugs or alcohol at the time of the incident. § 87(2)(b) heard someone call out to him. He turned and saw a 5'8" tall, heavy-set uniformed male officer, identified by the investigation as PO Melvin Cordero of the 77th Precinct, walking towards him. § 87(2)(b) denied walking away from the officer. PO Cordero asked him what he did. § 87(2)(b) replied that he had urinated. PO Cordero asked what was in his hand. § 87(2)(b) initially denied that PO Cordero mentioned anything about drugs, but later stated that PO Cordero asked if he had crack in his hand.

§ 87(2)(b) had the used tissue in an unspecified hand, which he showed to PO Cordero and then placed into his right pants pocket saying, "It's just a tissue." He denied holding any other small item in his hand and denied throwing anything away.

Without saying anything, PO Cordero grabbed § 87(2)(b)'s right arm and pulled it behind his back. § 87(2)(b) could not describe how he came to land on the ground. He struck his right shoulder and the right side of his face. He denied punching, pushing, kicking or otherwise assaulting an officer, and denied resisting in any way. Before he was handcuffed, a second uniformed male officer he could not describe further, identified by the investigation as PO Alex Viera of the 77th Precinct, suddenly appeared in view. During his in-person statement, § 87(2)(b) stated that he felt a kick to his forehead, but did not see who kicked him. However, in his earlier phone statement, § 87(2)(b) stated that PO Viera kicked him. § 87(2)(b) did not allege any additional force used against him before he was rear-cuffed.

After he was handcuffed, back-up officers, one of whom was identified by the investigation as Sgt. David Jones of the 77th Precinct, arrived on scene. § 87(2)(b) heard PO Cordero or PO Viera say to them they believed § 87(2)(b) possessed drugs on his person, which § 87(2)(b) denied. No drugs were recovered from § 87(2)(b)'s person or from the location.

At the 77th Precinct stationhouse, § 87(2)(b) spoke to an unidentified uniformed black officer in his 40s who was taller than 5'8" and dressed in a white shirt. § 87(2)(b) expressed that his face was in pain and requested medical attention. § 87(2)(b) sustained abrasions to the front and right side of his forehead. Lt. Anderson told § 87(2)(b) to go to court and go home. § 87(2)(b) denied signing any papers refusing medical treatment. § 87(2)(b) denied that any EMS personnel responded to the stationhouse to treat him. § 87(2)(b) did not seek medical treatment after the incident.

NYPD Statements:

Subject Officer: PO MELVIN CORDERO

- *PO Cordero, § 87(2)(b)*
- *PO Cordero worked from 5 p.m. on October 8, 2013 through 2:05 a.m. on October 9, 2013. He was partnered with PO Viera to a Conditions Unit. They were dressed in uniform and assigned to an unmarked car.*

Memo Book (encl. E1-4)

At 10 p.m., PO Cordero noted that he stopped § 87(2)(b) for urinating in public, after which § 87(2)(b) threw crack and ran. At 10:05 p.m., he marked § 87(2)(b)'s arrest. At 10:45 p.m., EMS personnel arrived at the stationhouse and treated § 87(2)(b) for a cut to the right side of his face.

Arrest Paperwork (encl. G8-12, G17)

PO Cordero prepared the criminal complaint report, arrest report, and criminal court complaint for § 87(2)(b)'s arrest. § 87(2)(b) was charged with tampering with physical evidence, criminal

possession of a controlled substance in the seventh degree, resisting arrest, and urinating in public. PO Cordero noted that he observed § 87(2)(b) in possession of a small Ziploc bag PO Cordero believed from his experience to be crack cocaine. He noted that § 87(2)(b) resisted by running and throwing crack, as well as flaring his arms to prevent his arrest.

CCRB Statement (encl. E12-13)

On March 4, 2014, PO Cordero provided a statement to the CCRB.

On October 8, 2013, at 10 p.m., while driving, PO Cordero observed § 87(2)(b) urinate against a tree near Pacific Street and Ralph Avenue in Brooklyn. Without prior discussion with PO Viera, PO Cordero exited the car and walked toward § 87(2)(b) who was approximately two car lengths behind the RMP. PO Viera entered the driver's seat and reversed the patrol car backwards.

PO Cordero said, "Stop, police," intending to summons § 87(2)(b) for urinating in public. § 87(2)(b) turned and looked at PO Cordero and then walked quickly in the opposite direction away from PO Cordero, throwing a white substance in a small plastic bag onto the street. PO Cordero believed it was crack because of the color and packaging. He did not see exactly where the substance landed. PO Cordero denied that § 87(2)(b) informed him he had tissue in his hand to wipe himself after urinating.

PO Cordero approached § 87(2)(b) an unspecified distance away. § 87(2)(b) pushed PO Cordero away on an unspecified part of his body. PO Cordero and § 87(2)(b) both grabbed each other's arms. In the process, they spontaneously fell to the ground. PO Cordero could not describe any injuries to § 87(2)(b) after he landed on the ground and did not see any injury to his face at that time. § 87(2)(b) placed his arms underneath his body. PO Cordero was eventually able to grab § 87(2)(b)'s hands from underneath him and place him into handcuffs. PO Cordero stated that PO Viera eventually exited the RMP and assisted him, but could not describe when PO Viera approached and did not recall what actions PO Viera took. PO Cordero denied personally doing so or seeing PO Viera kick § 87(2)(b) in the head.

After § 87(2)(b) was handcuffed, Sgt. David Jones of the 77th Precinct responded to the scene and verified the arrest. PO Cordero and PO Viera unsuccessfully canvassed the area for the crack bag. PO Cordero noted that there were many rain puddles on the ground that could have made the discarded item difficult to recover.

At the 77th Precinct stationhouse, PO Cordero noticed that § 87(2)(b) had a laceration to the right side of his face and called for EMS. EMS personnel, one of whom was identified by the investigation as EMT [first name unknown] Lindie of an unknown ambulance company, spoke to and treated § 87(2)(b) in the prisoner holding pen. However, § 87(2)(b) refused to be taken to the hospital.

Witness Officer: PO ALEX VIERA

- PO Viera, § 87(2)(b) [REDACTED].
- On the date of the incident, PO Viera had the same tour and assignment as PO Cordero.

Memo Book (encl. E14-16)

At 10 p.m., PO Viera noted the stop of § 87(2)(b) for urinating on the sidewalk. At 10:05 p.m., he noted PO Cordero's arrest of § 87(2)(b).

CCRB Statement (encl. E17-18)

On March 12, 2014, PO Viera was interviewed at the CCRB. He generally corroborated PO Cordero's statement. Relevant additions are noted below.

PO Viera did not witness § 87(2)(b) urinating nor was he given any information about § 87(2)(b) allegedly being in possession of crack-cocaine. After PO Cordero exited the RMP, PO Viera

next saw him several seconds later using both of his hands to hold § 87(2)(b)'s hands behind his back. § 87(2)(b) was already on the ground. PO Viera did not recall if § 87(2)(b) was struggling. PO Viera approached and provided his handcuffs to PO Cordero to handcuff § 87(2)(b). PO Viera denied personally doing so or seeing PO Cordero kick § 87(2)(b).

PO Viera did not hear § 87(2)(b) request medical attention from any officer at the stationhouse.

Witness Officer: LT. TERRELL ANDERSON

- *Lt. Anderson, § 87(2)(b)*
§ 87(2)(b). On October 8, 2013, Lt. Anderson worked from 6:45 a.m. to 3:15 p.m. without any overtime. He did not recall his assignment.

Memo Book (encl. E19-20)

§ 87(2)(b) verified that on March 25, 2014, Lt. Anderson's memo book covering the date of the incident was destroyed as a result of a fire in his RMP.

CCRB Statement (encl. E21-22)

On May 20, 2014, Lt Anderson was interviewed at the CCRB.

Lt. Anderson did not know of any lieutenant or captain at the 77th Precinct stationhouse that fit the description provided by § 87(2)(b) other than himself. He did not have an independent recollection of the incident or recognize § 87(2)(b)'s arrest photo. He maintained that he was not present at the stationhouse at the time of the processing of § 87(2)(b)'s arrest.

Medical Records: (encl. I25-26)

Because of the inaccurate recording of the Pre-Hospital Care Report (PCR) number and EMT Lindie's shield number on the IAB log, the investigation has not yet been able to determine with which ambulance company the PCR had been filed or to obtain a copy of it.

As of the date of this report, a request to the FDNY Court Desk submitted on November 5, 2014 for the identity of the EMTs who responded to the stationhouse to treat § 87(2)(b) and the ambulance company for whom they worked is pending receipt. Because § 87(2)(b) was not transported to a hospital for medical treatment, there is no alternative method to obtain the PCR.

Nevertheless, because the investigation obtained a copy of § 87(2)(b)'s Medical Treatment of Prisoner form, the investigation determined that the PCR was not needed to reach an affirmative disposition to the allegations.

NYPD Documents:

IAB Log #2013-43296 (encl. D1-2)

Sgt. Rizzo reported to IAB that § 87(2)(b) was combative, and he somehow received a small abrasion over his right eye while resisting arrest. Sgt. Rizzo noted that at the stationhouse, § 87(2)(b) was examined by EMT [first name unknown] Lindie and that he refused medical attention. Sgt. Rizzo noted § 87(2)(b)'s Pre-Hospital Care Report number as "§ 87(2)(b)" and EMT Lindie's shield number as "1245."

Event Summary #§ 87(2)(b) (encl. F1)

The summary confirmed that an EMS unit responded to the 77th Precinct stationhouse at 10:32 p.m. in regards to an injured prisoner.

Command Log (encl. F3-9)

§ 87(2)(b)'s arrest entry in the 77th Precinct Tour 3 Command Log on October 8, 2013 noted his physical and mental condition as "intoxicated/ laceration to right temple." The Tour 3 Command Log and Tour 1 Command Log on October 9, 2013 did not reveal any black male lieutenant or captain's signature.

Roll Call (encl. F10-26)

The 77th Precinct Tour 3 Roll Call on October 8, 2013 and Tour 1 Roll Call on October 9, 2013 revealed no black male lieutenants or captains on duty. Sgt. Jones' assignment was the Assistant Integrity Control Officer, and no partner or vehicle assignment was listed for him.

Medical Treatment of Prisoner (MTP) Form (encl. G15)

An eight-month delay was incurred in obtaining a copy of § 87(2)(b)'s MTP form because it was not available from the 77th Precinct as of April 15, 2014, nor was it available from the Brooklyn Court Section as of September 23, 2014. On October 10, 2014, a notarized unsealing order was received from § 87(2)(b) and his case file was subpoenaed from the Brooklyn District Attorney (DA)'s office. On November 14, 2014, the DA case file was forwarded to the CCRB and his MTP was finally obtained.

§ 87(2)(b)'s MTP narrative noted that § 87(2)(b) had a minor cut on his forehead. It did not note his mental state. It noted that he did not request medical aid and that he refused medical aid both in the field and at the precinct stationhouse. It noted that he was not referred to the hospital emergency room. The MTP revealed § 87(2)(b)'s signature in two locations, underneath the "Prisoner's Signature" and "Respondent's Rank" sections.

The MTP listed "1295" as EMT Lindie's shield number and "§ 87(2)(b) as § 87(2)(b)'s PCR report number, both of which differed from the information in the IAB Log.

Google Streetview Map (encl. C1)

A Google Streetview Map of the southeast corner of Ralph Avenue and Pacific Street revealed no external surveillance systems in the vicinity of the incident location.

§ 87(2)(b)

Status of Civil Proceedings (encl. H1)

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of October 30, 2014 with regard to the incident.

§ 87(2)(b), § 87(2)(c) (impair contract awards or CBAs)

Civilian CCRB History (encl. B3)

- This is the first CCRB complaint filed by § 87(2)(b)

Subject Officers CCRB History (encl. B1-2)

- PO Cordero has been a member of the service for three years and there are no substantiated CCRB allegations against him.
- PO Viera has been a member of the service for seven years and there are no substantiated CCRB allegations against him.

Conclusion

Identification of Subject Officers

PO Cordero acknowledged initiating the stop and arrest of § 87(2)(b). Therefore, a physical force allegation is pleaded against him.

In his phone statements to IAB and CCRB, § 87(2)(b) claimed that PO Viera “stomped on” his face while PO Cordero struggled to handcuff him. However, during his in-person statement, § 87(2)(b) stated that he saw PO Viera in his view, but did not see which officer allegedly kicked him in the forehead. Given the circumstances, PO Viera is the only officer to which the kick could be attributed, as PO Cordero was seemingly still on the ground trying to handcuff § 87(2)(b). Therefore, a physical force allegation is pleaded against PO Viera.

§ 87(2)(b) stated that he requested medical treatment from an unidentified uniformed black officer in his 40s who was taller than 5’8” and dressed in a white shirt. A review of the Command Log and Roll Call revealed no black male lieutenant or captain on duty at the time of the incident. A Complaint Tracking System search of black male lieutenants and captains assigned to the 77th Precinct revealed Lt. Anderson as the sole match. Lt. Anderson stated that he was the only officer he knew of to match § 87(2)(b)’s description of the subject officer’s rank and pedigree within the 77th Precinct. However, the investigation determined that he was not working at the time of the incident. Therefore, the refusal to provide medical treatment allegation is pleaded against “an officer” of the 77th Precinct.

Allegations Not Pleaded

Because § 87(2)(b) was arrested and charged with tampering with physical evidence, criminal possession of a controlled substance in the seventh degree, resisting arrest, and public urination, a stop allegation is not pleaded.

Investigative Findings and Recommendations:

Allegation A- Force: At Ralph Avenue and Pacific Street in Brooklyn, PO Melvin Cordero used physical force against § 87(2)(b)

Allegation B- Force: At Ralph Avenue and Pacific Street in Brooklyn, PO Alex Viera used physical force against § 87(2)(b)

It is undisputed that § 87(2)(b) urinated in public and that PO Cordero accused him of having crack in his hand. It is undisputed that PO Cordero grabbed § 87(2)(b)’s arms, that § 87(2)(b) somehow fell to the ground, and that § 87(2)(b) sustained a small abrasion to his forehead. It is undisputed that no drugs were recovered during the incident.

PO Cordero claimed to see § 87(2)(b) discard a Ziploc bag containing a white substance he believed to be crack, an observation he verbalized to § 87(2)(b) as well as documented in his memo book and in § 87(2)(b)’s arrest paperwork. However, § 87(2)(b) denied having drugs on his person or discarding any objects. § 87(2)(b), § 87(2)(g)

§ 87(2)(b) could not provide any explanation of how he came to be on the ground after PO Cordero grabbed his right arm. § 87(2)(b) denied attempting to leave the scene, and denied assaulting

stationhouse and he denied signing any papers refusing medical attention. § 87(2)(b) stated that he did not seek medical attention following the incident.

PO Cordero stated that he requested an ambulance for § 87(2)(b). He stated he witnessed EMTs treat § 87(2)(b) in the prisoner holding pen, and § 87(2)(b) refused to go to the hospital.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date